

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FREDRICK DON KILMER,

Petitioner,

v.

MARION SPEARMAN, Warden,

Respondent.

Case No. [11-cv-05560-YGR](#) (PR)

**ORDER DENYING APPLICATION FOR  
CERTIFICATE OF APPEALABILITY  
AS PREMATURE**

Petitioner's motion for a certificate of appealability ("COA") is DENIED as premature. Dkt. 62. A COA is granted or denied only when the Court issues a final order disposing of a petition for writ of habeas corpus and enters judgment. *See* 28 U.S.C. § 2253(c)(1). Because Petitioner's habeas petition is pending, his request for a COA is premature. The Court will issue or decline to issue a COA when it rules on Petitioner's habeas petition.

This Order terminates Docket No. 62.

IT IS SO ORDERED.

Dated: December 18, 2015



YVONNE GONZALEZ ROGERS  
United States District Judge